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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,007	04/23/2004	Marc Edward Thorne	56453.01500	7660

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EXAMINER

WALTERS, JOHN DANIEL

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/830,007	THORNE, MARC EDWARD
	Examiner	Art Unit
	John D. Walters	3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-36 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-36 is/are rejected.
- 7) Claim(s) 25 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 April 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

## DETAILED ACTION

Claims 1 – 36 have been examined.

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

- Reference character "10" has been used to designate both pouch (page 9, paragraph 30) and retainer (page 9, paragraph 30).
- Reference characters "28" and "30" have both been used to designate a fastener (page 10, paragraph 32). In addition, reference character "30" has been used to designate a ring (page 10, paragraph 32).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The disclosure is objected to because of the following informalities:

- Section headings should appear in upper case without underlining or bold type.  
Appropriate correction is required.

Claim 25 is objected to because of the following informalities:

- The claim states that "the fastener attaches to a skin binding". The assumption is being made, in the interest of continuing examination, that the applicant meant "ski binding".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of claim 26 recites "a system for determining the location of a snow recreational device". Claim 27, which is dependant on claim 26, goes on to recite "further comprising means for securing the system to a recreational device" and claim 28, which is dependant on claim 27, recites "wherein the

recreational device is a snow recreational device". This sequence of narrow to broad to narrow claims should read as follows:

- in claim 26, remove "snow" from in front of "recreational device";
- in claim 27 replace "a" from in front of "recreational device" with "the".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 10-30, and 33-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Locantro (5,324,063). Locantro discloses a ski retrieval apparatus comprising:

- a pouch (i.e. receptacle) with a first opening (Fig. 6, items 11 and 34);
- a retainer attached to the pouch (Fig. 1, item 16);
- a locator positioned in the pouch, which is threaded through the first opening in the pouch (Fig. 6, item 32);
- a second opening in the pouch used to place the locator within the pouch (Fig. 6, formed by the removal of item 4);
- a fastener attached to the locator (Fig. 6, item 33);

- whereby the fastener attaches to a snow recreational device (ski) onto it's binding, a component of which is the brake (column 4, lines 55-57 & Fig. 1);
- whereby the retainer is positioned around an object, for example, the foot covering (ski boot, boot, or shoe) of the skier (column 3, lines 54 and 55).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Locantro (5,324,063). Locantro discloses a ski retrieval apparatus comprising elements listed above. Locantro, however, is silent on the use of his device with respect to other sporting devices. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use the retrieval apparatus of Locantro with other sporting devices that could become separated from their riders/operators such as snowboards, water skis, wake boards, and surf boards. These devices and others like them would also benefit by being easily found when separated from their rider/operator.

Claims 6, 7, and 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Locantro (5,324,063) in view of Ciari (6,505, 575). Locantro is silent on the color of the material used for the locator. Ciari, however, discloses a location indicator comprising:

- brightly colored material, preferably a bright fluorescent (column 4, lines 39-40).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to produce the apparatus of Locantro using the brightly colored locator material of Ciari in order to produce an easy to see locator.

### ***Conclusion***

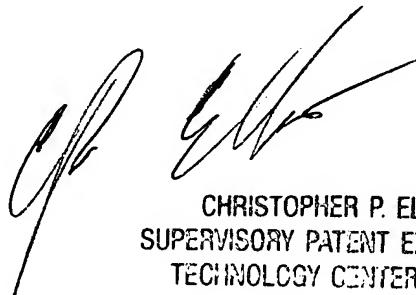
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stimler (2,933,324), Dodge (4,744,347), and Cimino (5,000,482) all disclose apparatus for use in location of sporting devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John D. Walters  
Examiner  
Art Unit 3618

A handwritten signature in black ink, appearing to read "JDW" above a stylized "J".A handwritten signature in black ink, appearing to read "CPE" above a stylized "C".

CHRISTOPHER P. ELLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600